

day only where the servicing intermediary finds that the additional time is warranted. The primary effect of this change will be to prevent payment for more than one day in those situations where additional time is not needed to arrange for postdischarge care.

**2. Availability of Skilled Nursing Facility Beds.** Several of those who commented were concerned that the lack of available skilled nursing facility beds in their localities would make transfers during a 1-day grace period difficult, if not impossible.

The regulatory change does not affect current policies and procedures that allow a hospital inpatient requiring a skilled level of nursing care to continue to receive payment for care at the hospital until an available skilled nursing facility bed can be found for the patient within the hospital's locality (42 CFR 405.1627(a)(2)). Thus, Medicare beneficiaries will not be subject to increased hardship because of this change.

**3. Inconsistent "Grace Periods".** Several commenters expressed concern that the grace period under sections 1879 and 1158 of the Social Security Act, which under routine circumstances allow payment for only 1 day, are not consistent with the grace period payment allowed under section 1814(a)(7) of the Act, which routinely allows payment for up to 3 days following a notice by the provider's utilization review committee. As a result, they fear that Medicare beneficiaries will be treated differently under these provisions.

Section 1814(a)(7) permits payment for 3 days of institutional care following the day upon which an institution receives a utilization review committee notice that further care is not medically necessary, if the patient remains in the institution. However, unlike section 1879, section 1814(a)(7) applies only when services rendered up to the time of the utilization review committee's finding are medically necessary. Also, unlike sections 1879 and 1158, section 1814(a)(7) does not expressly offer any discretion in the number of days for which such payments are to be made. Section 1879 leaves the length of the "grace period" to the discretion of the Secretary. Section 1158 mandates 1 day, but authorizes a PSRO to approve up to 2 additional days of payment, for a total of 3 days, if the patient requires more time to arrange for postdischarge care.

Since payment for "grace period" days under section 1814(a)(7) cannot be changed by regulation, the change being made here will result in an apparent inconsistency. However, it should be noted that section 1814(a)(7) applies only to hospitals and skilled nursing facilities which are not under PSRO review. PSRO imple-

mentation in hospitals is already well along and the application of section 1814(a)(7) should eventually be phased out entirely. Therefore, we think changing this regulation now will achieve as much consistency as possible.

**5. Determining Need for Additional Time.** One commenter expressed concern that the regulation provides for the intermediary to make the decision as to whether more time is required to arrange for postdischarge care. Another suggested that the regulation should put more emphasis on requiring the provider to demonstrate that more time is required to arrange for postdischarge care.

The regulation is consistent with the overall claims review responsibility of intermediaries for determining the amount of payments due providers under Medicare, and for making such payment. The intermediary's determination will be based on information or recommendations from varied sources and forwarded by the provider from, for example, an attending physician, the utilization review committee, a social service agent or some other party familiar with the beneficiary's situation. Thus, the provider or other sources must demonstrate to the intermediary sufficient need for additional time to arrange for postdischarge care to justify an extension of the grace period.

**6. Need for Regulations Change.** Several commenters questioned the need for the regulation change, suggesting that it would increase paperwork and would not result in any significant savings.

We do not believe that the regulation change will substantially increase paperwork. Furthermore, we believe that the change will result in reduced Medicare payments for noncovered services under section 1879, by encouraging providers and patients to make more timely arrangements for postdischarge care.

In our view, any increase in administrative costs will be far outweighed by the savings in Medicare payment.

Accordingly, the amendments are adopted without change, as set forth below.

42 CFR 405.330 is amended by revising paragraph (b) to read as follows:

**§ 405.330 Payment for certain nonreimbursable expenses.**

\* \* \* \* \*

(b) Payment under this provision may be made for inpatient hospital services, post hospital extended care services, and home health services (as defined in §§ 405.116, 405.125, and 405.236 respectively) furnished on the first day after which ever of the following days is the earlier:

(1) The day on which the individual, to whom such items or services were furnished, has been determined, under § 405.332(a), to have knowledge, actual or imputed, that such items or services were excluded from coverage by reason of § 405.310(g) or § 405.310(k); or

(2) The day on which the provider of services, which furnished such items or services, has been determined, under § 405.332(b), to have knowledge, actual or imputed, that such items or services were excluded from coverage by reason of § 405.310(g) or § 405.310(k).

If it is determined by the fiscal intermediary that more time is required in order to arrange post discharge care, payment may be made for services furnished for up to 2 additional days.

(Secs. 1102, 1871, 1879 of the Social Security Act; 42 U.S.C. 1302, 1395hh., 1395pp)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance; No. 13.774, Medicare—Supplementary Medical Insurance.)

Dated March 5, 1979.

LEONARD D. SCHAEFFER,  
Administrator, Health Care  
Financing Administration.

Approved: March 17, 1979.

HALE CHAMPION,  
Acting Secretary.

[FR Doc. 79-8884 Filed 3-22-79; 8:45 am]

**[7035-01-M]**

#### Title 49—Transportation

##### CHAPTER X—INTERSTATE COMMERCE COMMISSION

###### SUBCHAPTER A—GENERAL RULES AND REGULATIONS

(Ex Parte No. MC-43 (Sub-No. 7))

###### PART 1057—LEASE AND INTERCHANGE OF VEHICLES

###### Lease and Interchange of Vehicles; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Notice of corrections to final rules.

SUMMARY: A portion of § 1057.24(a) was inadvertently omitted from the printed decision (*Lease and Interchange of Vehicles*, 131 M.C.C. 141) and the FEDERAL REGISTER notice (44 FR 4680) which set forth the final rules adopted in this proceeding. Also, the subsections of § 1057.25 were numbered in the final decision instead of being lettered. These sections are being republished in this notice in the

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correct form and with the correct content.

**FOR FURTHER INFORMATION CONTACT:**

Richard Armstrong (202) 275-7426.

Sections 1057.24 and 1057.25 are corrected to read as set forth below:

**§ 1057.24 Exemption for trip leasing equipment used in agricultural operations.**

The requirement in § 1057.12(c) concerning the minimum duration of a lease for equipment with driver, does not apply where the authorized carrier complies with the provisions of § 1057.25 and where:

(a) The equipment is leased by the authorized carrier for use in a single movement or in one or more of a series of movements, loaded or empty, in the general direction of the place where the equipment is based, and the equipment is that of one of the following:

(1) A farmer or a cooperative association or federation of cooperative associations under 49 U.S.C. § 10526(a)(4) or (5).

(2) A private carrier and the equipment is used regularly in the transportation of (i) property referred to in 49 U.S.C. § 10526(a)(6), or (ii) perishable products manufactured from perishable property referred to in that section.

(b) The equipment has completed a movement covered by 49 U.S.C. § 10526(a)(6) and is leased to the authorized carrier for use next in one of the following:

(1) A loaded movement in any direction.

(2) One or more of a series of movements, loaded or empty, in the general direction of the place where the equipment is based.

(3) A movement described in (1) of this subsection and then a movement described in (2) of this subsection.

**§ 1057.25 Record keeping for agricultural exemption.**

To qualify for the exemption in § 1057.24, prior to leasing the equipment, the authorized carrier shall receive and retain a statement signed by the owner, or authorized representative of the owner, which includes:

(a) Authorization for the driver to lease the equipment for such movements.

(b) Certification that the equipment meets the qualifications in (a) or (b) of § 1057.24.

(c) Specification of the origin, destination, and the time of beginning and ending of the last movement which

brought the equipment within the exemption of § 1057.24.

H. G. HOMME, Jr.,  
Secretary.

[FRC Doc. 79-8991 Filed 3-22-79; 8:45 am]

**[7035-01-M]**

[EX PARTE NO. 55 (Sub-No. 34)]

**PART 1003—LIST OF FORMS**

**PART 1100 APPENDIX F—NUMBER OF COPIES OF DOCUMENTS**

**PART 1134—CONTROL OR CONSOLIDATION OF MOTOR CARRIERS OR THEIR PROPERTIES**

**Revision of Finance Forms**

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission is revising certain finance forms used in applications to consolidate, merge, purchase, or lease operating rights and properties of a motor carrier, acquire control of a carrier, issue and sell securities, and temporarily operate a carrier sought to be acquired. The changes are intended to make the forms easier to understand and to conform statute citations to the recent codification of the Interstate Commerce Act. Several minor reporting changes have been made to meet the requirements of previous statutory and regulatory changes.

**EFFECTIVE DATE:** Applications filed on or after July 1, 1979.

**FOR FURTHER INFORMATION CONTACT:**

Michael Erenberg, (202) 275-7292.

**SUPPLEMENTARY INFORMATION:** The Commission is taking this action so that these forms conform to previous changes in statutes and regulations and so they are easier to understand. The forms include OP-F-44, application to consolidate, merge, purchase, or lease operating rights and properties of a motor carrier, OP-F-45, application for authority to acquire control of a motor carrier or motor carriers through ownership of stock or otherwise, OP-F-46, application for approval of the temporary operation of motor carrier properties sought to be acquired under separately filed applications or of transfers of motor carrier certificates and permits, OP-F-200, application for authority to issue securities, or to assume obligation or liability in regard to securities of another person, and OP-F-210, special application for authority to sell securities without competitive bidding. In addition, the number of copies re-

quired to be filed with the Commission has been reduced to three, along with the original, in all cases. Except for these minor changes, no substantive changes have been made. Therefore, prior notice to the public is unnecessary, see 5 U.S.C. 553(b).

In accordance with The Energy Policy and Conservation Act of 1975, the Commission recently adopted rules at 49 CFR 1106. Each of the application forms complies with that Act and adopted rules, by requiring applicant to specify whether the proposed action under the application is a major regulatory action under the terms of that Act and to provide supplementary information where applicable. There is no reporting requirement in Form OP-F-46. That form concerns applications for approval of temporary operation of motor carrier properties, thus falling outside the scope of the reporting requirements, see 49 CFR 1106.7(c).

Item 7 of Form OP-F-200 has been changed to bring it into agreement with Section 308 of the Railroad Revitalization and Regulatory Reform Act of 1976. The Commission adopted the new procedures listed in Item 7 in Ex Parte No. 279, *Securities Regulations—Public Offerings (Form of Offering Circular Required for Public Sales of Securities Authorized under Section 20a or 214 of the Interstate Commerce Act)*, decided March 24, 1976 (not printed).

Finally, improved internal handling of these application forms has lessened the requirement for the number of copies needed by the Commission. In the future only an original and three copies need be filed. Appropriate sections of the Code of Federal Regulations, as indicated below, are modified to reflect these changes.

If persons wish to comment on the format or correctness of the attached forms, they may file comments with the Commission within 30 days of the service date of this notice. Please mail them directly to Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

Authority for the changes is found in 5 U.S.C. 552 and 553(b) and 49 U.S.C. 10101, 49 U.S.C. 10321, 49 U.S.C. 10501, 49 U.S.C. 10521, 49 U.S.C. 10921, 49 U.S.C. 11301 through 11303, and 49 U.S.C. 11341.

Decided: February 9, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp,

and Christian. Vice Chairman Brown absent and not participating.

H. G. HOMME, Jr.,  
*Secretary.*

**MODIFICATIONS IN CODE OF FEDERAL  
REGULATIONS FOR NUMBER OF APPLI-  
CATION COPIES REQUIRED**

**PART 1134—CONTROL OR CONSOLI-  
DATION OF MOTOR CARRIERS OR  
THEIR PROPERTIES**

I. The following subsections of Volume 49 of the Code of Federal Regulations are modified as follows:

**§ 1134.1 [Amended]**

49 C.F.R. 1134.1(b)—delete "five copies", replace with "three copies".

**§ 1134.6 [Amended]**

49 C.F.R. 1134.6(b)—delete "five copies", replace with "three copies".

**§ 1134.50 [Amended]**

49 C.F.R. 1134.50(b)—delete "five copies", replace with "three copies".

49 C.F.R. 1100, Appendix F—Number of copies of documents (in addition to original) to be filed with Commission. Indicate requirement of three copies opposite the following:

Competitive bidding requirements—exemption.

Securities issuance, assumption of obligations.

Merger, consolidation, purchase, or lease (Form OP-F-44).

Temporary operation (Form OP-F-46).

Sec. 5a (Forms OP-F-44 and OP-F-45).

**PART 1003—LIST OF FORMS**

II. 49 C.F.R. 1003 is modified by adoption of the following revised forms:

[7035-01-C]  
 FORM OP-F-44 (49 CFR 1134.1)  
 Revised - - 79

## BEFORE THE INTERSTATE COMMERCE COMMISSION

No. MC-F- (For Office Use Only)

APPLICATION FOR AUTHORITY UNDER 49 U.S.C. 11343, 11344  
 TO CONSOLIDATE, MERGE, PURCHASE, OR LEASE OPERATING  
 RIGHTS AND PROPERTIES OF A MOTOR CARRIER  
 (Please read instructions before preparing)

I. This is an application of --

A. \_\_\_\_\_ (Full name of transferee<sup>1/</sup>)(State whether corporation, partnership, individual, trustee, receiver  
 or assignee)

doing business as \_\_\_\_\_

(City) \_\_\_\_\_ (State) \_\_\_\_\_ (ZIP Code)

B. \_\_\_\_\_ (Full name of transferor<sup>2/</sup>)(State whether corporation, partnership, individual, trustee, receiver  
 or assignee)

doing business as \_\_\_\_\_ (Trade name)

<sup>1/</sup> Includes, (1) in a consolidation, the new corporation succeeding to assets and assuming liabilities of two or more carriers, (2) in a merger, the surviving corporation performing a similar function, (3) in a purchase, the vendee, and (4) in a lease, the lessee. If more than one transferee, use identification AA, AAA, etc.

<sup>2/</sup> Includes, in a merger or consolidation, the carrier or carriers proposed to be liquidated, and in a purchase or lease, the vendor or lessor, respectively. If more than one transferor, use identification BB, BBB, etc.

(Number and Street)

(City)

(State)

for authority under 49 U.S.C. 11343, 11344 (describe briefly  
 the consolidation, merger, purchase, or lease for which  
 authority is sought): \_\_\_\_\_

II. Will granting the authority sought in this application  
 constitute a major Federal action having a significant effect  
 upon the quality of the human environment? [ ] YES [ ] NO

If YES, a statement complying with requirements of 49  
 CFR 1108 must be attached to this application.

Is this application a major regulatory action under the  
 Energy Policy and Conservation Act of 1975? (Refer to 49  
 C.F.R. 1106.1 through 1106.4, especially 1106.5). [ ] YES [ ] NO

If YES, attach information as to why this proceeding  
 is a major regulatory action, and a description of important  
 energy impacts.

III. Transferee is controlled<sup>3/</sup> directly or indirectly, by  
 the persons named below. These persons join in this application  
 as applicant for authority to control the operating  
 rights and any property sought to be acquired by transferee,  
 any other means.

<sup>3/</sup> 49 U.S.C. 10102(6) provides that "control" includes  
 actual control, legal control, and the power to exercise  
 control, through or by common directors, officers, stock-  
 holders, voting trusts, holding or investment companies, or

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Names Street Address, City, State, &amp; Zip Code \_\_\_\_\_

number of witnesses applicants expect to call:  
and the approximate time needed to present applicants' evidence: \_\_\_\_\_

ATTENTION: Knowing and willful misstatements or omissions of material facts constitute Federal criminal violations punishable by imprisonment and fines. (See 18 U.S.C. 1001.)

IV. All correspondence with respect to this application shall be sent to:

(Full name) \_\_\_\_\_

(Title and name of company; If attorney, so state) \_\_\_\_\_

(Business address) \_\_\_\_\_

V. The following appendices are attached:

Appendix A. -- Information regarding transferee, its affiliates if any, and the persons controlling transferee;

Appendix B. -- Information regarding transferor;

Appendix C. -- Nature of the proposed transaction and terms and conditions;

Appendix D. -- Operations under the rights sought to be acquired; and

Appendix E. -- Other facts and circumstances which applicants rely upon to warrant approval of the proposed transaction. Applicants will submit such additional information as the Commission may require.

VI. If the application is assigned for oral hearing, applicants prefer that the hearing be held at \_\_\_\_\_

Indicate places suitable for the hearing. If Washington, D.C. would not be objectionable, so state. State the approximate

ATTENTION: Knowing and willful misstatements or omissions of material facts constitute Federal criminal violations punishable by imprisonment and fines. (See 18 U.S.C. 1001.)  
Each person signing this application certifies that the representations made are, to the best of his/her knowledge and belief, true and complete.Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.  
(Signature of transferee)

By \_\_\_\_\_

(Title) \_\_\_\_\_

By person(s) in control of transferee:

Appendix A. -- Information regarding transferor;

Appendix B. -- Nature of the proposed transaction and terms and conditions;

Appendix C. -- Operations under the rights sought to be acquired; and

Appendix D. -- Other facts and circumstances which applicants rely upon to warrant approval of the proposed transaction. Applicants will submit such additional information as the Commission may require.

(Signature of transferor)

By \_\_\_\_\_

(Title) \_\_\_\_\_



## RULES AND REGULATIONS

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5. (a) Is transferee or any of the persons mentioned in 2, 3, or 4  
 (a) or (aa) above a motor, rail, or water carrier, an express or  
 sleeping car company, a freight forwarder, or a person in control  
 of or affiliated with such a carrier, company, or forwarder, or  
 related to, or affiliated with a person in control of or affiliated  
 with such a carrier, company, or forwarder? [ ]YES [ ]NO  
 If yes, consideration must be given to 49 U.S.C. 11323.
- (b) Does transferee, or any other above-mentioned person own any  
 interest in or exercise any measure of control over any carrier,  
 company, or forwarder, except as disclosed? [ ]YES [ ]NO  
 If answer to any of the above is "yes" explain fully. Identify each  
 carrier, company, or forwarder. Described nature and scope of its  
 operations. Identify Interstate Commerce Commission authority under  
 which operations are conducted: \_\_\_\_\_

- If yes, consideration must be given to 49 U.S.C. 11323.
- A-1. Copy of articles of incorporation, with all amendments; or copy of articles of partnership, association, trust agreement, or other documents evidencing organization.
- A-2. Copy of annual report to stockholders or shareholders for year preceding date of filing this application.
- Attach to original and each copy:
- A-3. Copy of all resolutions of directors authorizing the transaction proposed; and, if the charter or bylaws require approval by the stockholders, copy of resolutions of stockholders authorizing the transaction proposed, and indicating the percentage of stock voting the authorization.
- A-4. Copies of all resolutions of stockholders or directors, or fully authorized committees, designating by name and for what purpose the executive officer by whom the application is signed.

- If the transferee is an organization other than a corporation, furnish documentary evidence showing authorization and designation of the individual signing the application.
- If the party signing the application is a trustee, receiver, or like representative, furnish a copy of authorizing order of the court, if any.
6. Is transferee or any person controlling transferee, engaged in any other form of transportation activity? [ ]YES [ ]NO  
 If answer is "yes," indicate the extent: \_\_\_\_\_

- Attach to original only: (If documents here specified have been previously filed with the Interstate Commerce Commission in connection with any application, it will be sufficient to make reference to the docket number under which filed. However, any changes occurring since the filing shall be shown in a separate attached statement and identified to correspond with the specific appendix requested here.)
- The data requested below in A-5 through A-8, identified as indicated, must be furnished respecting transferee, any subsidiary engaged in transportation or activity connected with transportation, and the person or persons controlling transferee, except that, if the latter are non-carrier individuals who do not own any voting stock in, or control any other carrier subject to the Interstate Commerce Act, the data requested respecting transferee and subsidiaries only need be furnished.

## RULES AND REGULATIONS

## APPENDIX A -- CONTINUED

Attach to original and each copy:

- A-5. Balance sheet statement as of the latest available date. Ordinarily, this should be of a date within six months of the date of the application.
- A-6. Detail of intangible property accounts including for each item the amount, date of acquisition, and source of authority.
- A-7. Detail of investments in affiliated companies, including for each affiliated company the book cost of the investment in each class of securities, and the amount of advances made to each affiliated company.
- A-8. Income statement for current calendar year to the latest available date and for each of the two preceding calendar years. Preferably, the latest statement should be to the date of the balance sheet.

## APPENDIX B

## INFORMATION REGARDING TRANSFEROR

If more than one transferor, attach additional sheets, and mark for identification BB, BBB, etc.

A-6. Detail of intangible property accounts including for each item the amount, date of incorporation, formation, or organization or authority.

Date \_\_\_\_\_ State \_\_\_\_\_

A-7. Detail of investments in affiliated companies, including for each affiliated company the book cost of the investment in each class of securities, and the amount of advances made to each affiliated company.

If answer is "Yes" explain:

A-8. Income statement for current calendar year to the latest available date and for each of the two preceding calendar years. Preferably, the latest statement should be to the date of the balance sheet.

1. Date and State of incorporation, formation, or organization or transferor:
- Date \_\_\_\_\_ State \_\_\_\_\_
2. Is there any financial or other relationship existing between transferor and other applicants? [ ]YES [ ]NO
- If answer is "Yes" explain:

3. (a) Describe briefly the motor-carrier operating rights of transferor for which authority to consolidate, merge, purchase, or lease is sought, furnishing number or numbers assigned by the Interstate Commerce Commission. If only a portion of authority is involved, indicate specifically:


(b) If only part of transferor's operating authority is involved in the proposed transaction, describe operating authority being retained, particularly duplicating authority.

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If the transferor is an organization other than a corporation, furnish documentary evidence showing authorization and designation of the individual signing the application.

If the party by whom the application is signed is a trustee, receiver, or like representative of transferor, furnish a copy of the authorizing order of the court.

B-3. Balance sheet statement as of the lastest available date. Ordinarily, this should be of a date Within six months of the date of the application and of the same date, if possible, as that furnished on behalf of transferee.

B-4. Detail of intangible property accounts including for each item the amount, date of acquisition, and source of authority.

B-5. Income statement of current calendar year to the latest available date and for each of the two preceding calendar years. Preferably, the latest statement should be to the date of the balance sheet.

4. Are operations not being conducted by transferor under any portion of the operating rights involved in the proposed transaction? [ ] YES [ ] NO

If answer is "yes," explain:

---

Attach or original and each copy:

B-1. Copy of all resolutions of directors authorizing the transaction proposed; and, if the charter or bylaws requires approval by the stockholders, copies of resolutions of stockholders authorizing the transaction proposed, and indicating the percentage of stock voting for the authorization.

B-2. Copies of all resolutions of stockholders, directors, or fully authorized committees, designating by name and for that purpose the executive officer by whom the application is signed.

## APPENDIX C--Continued

## NATURE OF PROPOSED TRANSACTION AND TERMS AND CONDITIONS

Attach to original and each copy of this application the following data:

- C-1. Copy of every contract or other written instrument entered into, or proposed to be entered into, pertaining to the transaction, or if not contained in written contract or other instrument, a statement containing detailed description of the transaction.
- C-2. Statement showing ledger value (or estimated value where ledger value not available) for property proposed to be acquired, segregated by items in accordance with Uniform System of Accounts for Motor Carriers, with further segregation of revenue automotive equipment on basis of busses, trucks, tractors, semitrailers, full trailers, pole trailers, and miscellaneous equipment.

- C-3. Statement containing the following information for each item of encumbered property proposed to be acquired for which transferee has agreed to assume obligation.
- (a) Description of the property encumbered.
  - (b) Amount and full description of encumbrance, including maturity, interest, other terms and conditions, and whether amount is evidenced by a promissory note.
  - (c) Amount of encumbrance to be assumed by transferee.
  - (d) Amount of any other liability to be assumed by transferee showing the information requested in (b) above.

C-4. Statement explaining how transferee proposes to meet the financial requirements of the transaction, including, if a loan is involved, the amount, maturity, interest rate, other terms and conditions, and whether a promissory note or other securities will be issued.

C-5. If application is for authority to consolidate, merge, or purchase, "giving effect" balance sheet for transferee as of the latest available date showing the effect of consummation of the proposed transaction. Each adjustment should be separately explained.

C-6. "Giving effect" income statement for the current calendar year to date, for transferee, showing estimated adjustments and eliminations which would have resulted from consummation of the proposed transaction. Each adjustment should be separately explained and supported.

C-7. If the transaction involves an issue of securities or assumption of obligation or liability in respect to securities of transferor or others, (a) statement showing that the issue or assumption is within one of the exemptions in 49 U.S.C. 11302 or (b) statement indicating that a separate application will be filed under 49 U.S.C. 11302.

**OPERATIONS UNDER THE RIGHTS SOUGHT TO BE ACQUIRED**  
 Attach to original and each copy of this application the following appendices:

- D-1. Map showing the operations sought to be acquired, authority, if any, to be retained by transferor, and all pertinent portions of transferee's present authority.
- D-2. If irregular-route authority is sought to be acquired, indicate whether that authority sought can or will be joined with any operating authority transferee now holds, or seeks in a pending application, so as to permit the performance of a thorough service by transferee to, from, or between points not included under the operating rights sought to be transferred. [ ] YES [ ] NO

If answer is YES and joinder or tacking is intended, indicate the points or areas where the involved authorities would connect and the territory that would be served through the joinder. Show on map the method by which tacking would be accomplished. Consideration must be given to the provisions of Ex Parte 55 (Sub-No. 8), Gateway Elimination, 119 M.C.C. 530.

(Attach pertinent portions of authority now held or sought in pending applications).

- D-3. Statement showing the extent to which transferee or any carrier affiliated with transferee holds authority duplicating in any respect that sought here, or to which any application previously filed with the Commission and still pending, or any application being filed simultaneously with this one, seeks authority duplicating that sought in this application.

- D-4. If transferor is a carrier of property, submit an abstract showing actual shipments transported under the operating authority involved in the proposed transaction. Preferably, the abstract should include shipments transported during the 6 months preceding the date of the agreement of the parties

covering the transaction. Shipments before and after this period may be included provided that such evidence is not cumulative. The responsibility rests with applicants, if they rely on transferor's operations, to make this appendix as complete and representative of transferor's operations as possible. The relevant data shall be abstracted from bills of lading, freight bills, or other shipping documents in orderly and informative fashion. For each shipment shown on the abstract there should be shown the commodity, the weight, the point of origin, whether on-line or off-line; point of interchange if interchange was effected; and the point of destination, whether on-line or off-line. Shipments should be totalled by number and weight. The abstract shall not divulge information concerning the business activities of shippers or consignees which carriers are prohibited from disclosing without consent. Dormancy will be assumed respecting operating authority for which no shipments are shown, and other supporting data will be required.

The abstract shall be accompanied by a summary reflecting total number of shipments and weight transported between origin and destination point. If regular routes are involved the summary shall indicate the routes over which the shipments moved.

- D-5. If transferor is a carrier of passengers, or applicants will not rely on transferor's operations or the supporting evidence of public witnesses, describe the type of evidence which applicants rely upon to support their burden of proof.

- D-6. Vende affirms that if the authority being sought is granted, it shall not restrict, halt, or curtail service to and/or from any points previously served by vendor whether by tariff or otherwise. [ ] YES [ ] NO. If "no" explain.

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CERTIFICATE OF SERVICE

OTHER FACTS AND CIRCUMSTANCES WHICH APPLICANTS RELY UPON  
TO WARRANT APPROVAL OF THE PROPOSED TRANSACTION

Attach to original and each copy of this application the following information:

I certify that I have delivered a copy of this application, in person or by mail, to the following Regional Managing Director(s) of the Commission's Bureau of Operations for the Region(s) in which the headquarters of the carriers involved in the application are located.

- E-E-1. Explain and support the reasonableness of the consideration involved in the proposed transaction.
  - E-E-2. Show the effect of the proposed transaction upon adequate transportation service to the public.
  - E-E-3. Show the increase in fixed charges resulting from the proposed transaction, the manner in which it is proposed to meet these charges, and that the increase of transferee's total fixed charges would not be contrary to the public interest.
  - E-E-4. Establish that any warranty or assumption of payment of dividends or fixed charges contemplated in the transaction is consistent with the public interest.
  - E-E-5. Show the effect of the transaction on the interests of the carrier employees affected.
  - E-E-6. Establish that the transaction will be consistent with the public interest.
  - E-E-7. If transferee is a carrier by railroad subject to the Interstate Commerce Act, or a person which is controlled by or affiliated with such a carrier, show that the proposed transaction will enable such carrier by railroad to use service by motor vehicle to public advantage in its operation and will not unduly restrain competition.
  - E-E-8. Indicate whether the proposed transaction would result in dual operations, or the extension of these operations by transferee, or by transferor and any person controlling, controlled by, or under common control with transferee,

## Regional Managing Directors

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was delivered, in person or by first-class mail, to the appropriate State Board (or official) of the State in which the headquarters of the carriers are located:

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Dated this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

二

## INSTRUCTIONS

1. REFERENCE - See 49 U.S.C. 11343.
2. FILING FEE - Applicants must submit with the application a check or money order made out to the Interstate Commerce Commission for the amount listed at 49 C.F.R. 1002-2.
3. FORM - If this form is not used, application shall be typewritten or printed on paper 8-1/2 inches wide and 13 inches long, with a margin of 1-1/2 inches on the left side and 1 inch on the right side. Indent quotations and use only one side of the paper. White-line blueprints which cannot be reproduced by photography are not acceptable.
4. APPENDICES - Shall be folded to conform to the size of the application.
5. MANNER OF EXECUTION - The original application shall be signed in ink by applicants, if individuals; by all partners, if partnership; and if corporations, associations, or other similar forms or organization, by executive officers having knowledge of all matters contained therein and designated for that purpose by applicants.
6. NUMBER OF COPIES - File with the Secretary of the Interstate Commerce Commission at Washington, D.C. the original and three copies of each application. Concurrently furnish one copy to each of the Regional Managing Directors of the Bureau of Operations for the Regions in which are located the headquarters of the carriers involved in the application, and upon written request, to the Board, Commission, or Official (or to the Governor where there is no Board, Commission, or Official) having the authority to regulate the business of transportation by motor vehicle in each State in or through which the carriers operate. Signatures on the copies may be stamped or typed. A summary of the application, as provided in 49 CFR 1100.240(b), shall be delivered by first-class mail to the appropriate official (described above) of the States in which the headquarters of the carriers are located.
7. NOTICE TO COMPETITORS - Applicants are not required to give notice to competitors. Notice to interested persons of the filing of the application will be given by publication of a summary of the authority sought in the FEDERAL REGISTER.
8. WHEN ADDITIONAL SPACE REQUIRED - Attach to the application supplemental sheets, making specific reference to the supplements in the form. Do not paste riders to any page.
9. INFORMATION REQUIRED - Must be given unless not known or available, or if not applicable. In such case, however, explicit statement to this effect shall be made in the application in lieu of the omitted material, setting forth the reasons why the information has not been given.
10. RELATED APPLICATIONS - Applicant shall bring to the Commission's attention any certificate or permit it seeks (under the OP-OR-9 application procedure) which is directly related to the proposed transaction.
11. FEDERAL REGISTER SUMMARY - The applicant will prepare a summary of the authority sought for the Federal Register. The Commission will advise applicant if the summary does not properly describe the transaction (49 CFR 1100.240(b)).

## RULES AND REGULATIONS

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BEFORE THE INTERSTATE COMMERCE COMMISSION

APPLICATION FOR AUTHORITY UNDER 49 U.S.C. 11343, 11344  
TO ACQUIRE CONTROL OF A MOTOR CARRIER OR MOTOR CARRIERS  
THROUGH OWNERSHIP OF STOCK, OR OTHERWISE  
(Please read instructions on page before preparing)

No. MC-F-

(For office use only)

I. This is an application of--

(Full name of applicant)

(State whether corporation, partnership, individual, trustee, receiver  
or assignee)

(State whether a rail, express, motor, or water carrier)

doing business as

(Trade name)

Business address

(Number and street)

(City) \_\_\_\_\_ (State) \_\_\_\_\_ (Zip Code) \_\_\_\_\_

for authority under 49 U.S.C. 11343, 11344 to acquire control of--

(Full name of carrier(s) to be controlled)

Business address

(Number and street)

(City) \_\_\_\_\_ (State) \_\_\_\_\_ (Zip Code) \_\_\_\_\_

through ownership of capital stock, or otherwise.

Name \_\_\_\_\_ Street Address, City, State, & Zip Code \_\_\_\_\_

III. The aggregate gross operating revenues of applicant (if a motor carrier), the motor carrier(s) of which control is proposed to be acquired, and affiliates<sup>2/</sup> of both for a period of 12 consecutive months ending not more than six months preceding the date of the agreement of the parties covering the proposed transaction was \$ \_\_\_\_\_.

IV. The following appendices are attached:

Appendix A. -- Information regarding applicant, its affiliates if any, and the persons controlling applicant;

Appendix B. -- Information regarding carrier to be controlled, and its affiliates, if any, engaged in an activity connected with transportation, of which control would be acquired in this transaction;

Appendix C. -- Nature of the proposed transactions and its terms and conditions; and

Appendix D. -- Facts and circumstances on which applicant relies to warrant approval of the proposed transaction. Applicant will submit such additional information as the Commission may require.

1/ 49 U.S.C. 10102(b) provides that "control" includes actual control, legal control, and the power to exercise control, through or by common directors, officers, stockholders, voting trusts, holding or investment companies, or any other means.

2/ 49 U.S.C. 11343(c) provides that a person is affiliated with a carrier if, because of the relationship between the person and the carrier, it is reasonable to believe that the affairs of another carrier, control of which may be acquired by that person, will be managed in the interest of the other carrier.

V. If the application is assigned for oral hearing, applicant prefers that the hearing be held at \_\_\_\_\_

ATTENTION: Knowing and willful misstatements or omissions of material facts constitute Federal criminal violations punishable by imprisonment and fines. (See 18 U.S.C. 1001.)

Each person signing this application certifies that the representations made are, to the best of his/her knowledge and belief, true and complete.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

Indicate places suitable for the hearing. If Washington, D.C. would not be objectionable, so state. State the approximate number of witnesses applicant expects to call; and the approximate time needed to present applicant's evidence:

VI. All correspondence with respect to this application should be sent to:

(Full name)

(Title and name of company; if attorney, so state)

(Business address)

VII. Will granting the authority sought in this application constitute a major Federal action having a significant effect upon the quality of the human environment? [ ] YES [ ] NO

If YES, a statement complying with requirements of 49 C.F.R. 1108 must be attached to this application.

Is this application a major regulatory action under the Energy Policy and Conservation Act of 1975? (Refer to 49 C.F.R. 1106.1 through 1106.6, especially 1106.5)(c). [ ] YES [ ] NO

If yes, attach information as to why this proceeding is a major regulatory action, and a description of important energy impacts.

By \_\_\_\_\_ (Signature of applicant)

By person(s) in control of applicant:

## RULES AND REGULATIONS

## APPENDIX A -- CONTINUED

INFORMATION REGARDING APPLICANT, ITS AFFILIATES IF ANY,  
AND THE PERSON OR PERSONS CONTROLLING APPLICANT  
If more than one applicant, attach additional appendices, mark for  
identification AA, AAA, etc.

1. Date and State of incorporation, formation, or organization of  
applicant:

Date \_\_\_\_\_ State \_\_\_\_\_

2. Name, title, and business address of officers; partners, including  
limited or silent partners; or trustees:

Name \_\_\_\_\_ Title \_\_\_\_\_ Street Address, City, State & Zip Code \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_ Street Address, City, State & Zip Code \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_ Street Address, City, State & Zip Code \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_ Street Address, City, State & Zip Code \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_ Street Address, City, State & Zip Code \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_ Street Address, City, State & Zip Code \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_ Street Address, City, State & Zip Code \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_ Street Address, City, State & Zip Code \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_ Street Address, City, State & Zip Code \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_ Street Address, City, State & Zip Code \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_ Street Address, City, State & Zip Code \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_ Street Address, City, State & Zip Code \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_ Street Address, City, State & Zip Code \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_ Street Address, City, State & Zip Code \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_ Street Address, City, State & Zip Code \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_ Street Address, City, State & Zip Code \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_ Street Address, City, State & Zip Code \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_ Street Address, City, State & Zip Code \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_ Street Address, City, State & Zip Code \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_ Street Address, City, State & Zip Code \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_ Street Address, City, State & Zip Code \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_ Street Address, City, State & Zip Code \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_ Street Address, City, State & Zip Code \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_ Street Address, City, State & Zip Code \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_ Street Address, City, State & Zip Code \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_ Street Address, City, State & Zip Code \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_ Street Address, City, State & Zip Code \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_ Street Address, City, State & Zip Code \_\_\_\_\_

4. Name and business address of 10 principal stockholders, share-  
holders, or other owners, whichever applicable, as of \_\_\_\_\_  
(last record date) and their respective holdings.  
If holdings are in names of nominees, state names of real owners.

Names \_\_\_\_\_ Street address, City, State  
Class Shares Extent of Interest %  
and Zip Code

- 5. Total number of shares of stock authorized to be issued \_\_\_\_\_
- 6. Total number of shares issued and outstanding \_\_\_\_\_
- 7. Par value per share \$ \_\_\_\_\_.
- 8. If a person controlling applicant is a corporation, partnership, or  
association, furnish with respect to such person the information  
requested above \_\_\_\_\_

9. (a) Is applicant, any person controlling applicant, or any of the persons mentioned in 2, 3, 4, or 8 above a motor, rail, or water carrier, an express or sleeping-car company, a freight forwarder, or a person in control of or affiliated with such a carrier, company, or forwarder? [ ]YES [ ]NO
- If yes, consideration must be given to 49 U.S.C. 11323.
- (b) Does applicant, any person controlling applicant, or any other above-mentioned person own any interest in, or exercise any measure of control over any carrier, company, or forwarder, except as disclosed? [ ]YES [ ]NO

If answer to any of the above is "yes" explain fully, identifying each carrier, company, or forwarder. Describe nature and scope of its operations. Identify Interstate Commerce Commission authority under which operations are conducted, or attach copy of certificate(s) or permit(s) issued by this Commission:

10. Is applicant or any persons controlling applicant engaged in any other form of transportation activity? [ ]YES [ ]NO  
If "yes", indicate the extent:

## RULES AND REGULATIONS

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The appendices, requested below, identified as indicated, must be furnished respecting (a) applicant, (b) applicant's wholly owned subsidiaries and (c) the person or persons controlling applicant, except that, if the latter are noncarrier individuals who do not own any voting stock in, or control any other carrier subject to the Interstate Commerce Act, the appendices regarding these persons need not be furnished.

Attach to original only: (If documents here specified have been previously filed with the Interstate Commerce Commission in connection with any application, it will be sufficient to make reference to the docket number under which filed. Any changes occurring since the filing shall be shown in a separate statement attached, and identified to correspond with the specific appendix requested here.)

- A-1. COPY of articles of incorporation, With all amendments; or copy of articles of partnership, association, trust agreement, or other documents evidencing organization.

- A-2. Copy of annual report to stockholders or shareholders for year preceding date of filing this application.

Attach to original and each copy:

- A-3. Copy of all resolutions of directors authorizing the transaction proposed; and, if the charter or bylaws require approval by the stockholders, copies of resolutions of stockholders authorizing the transaction proposed, and indicating the percentage of stock voting for the authorization.

## APPENDIX A -- CONTINUED

## APPENDIX B

A-4 Copies of all resolutions of stockholders or directors, or duly authorized committees, designating by name and for what purpose the executive officer by whom the application is signed.

If applicant or a person controlling applicant is an organization other than a corporation furnish documentary evidence showing authorization and designation of the individual signing the application.

If any party signing the application is a trustee, receiver, or like representative, furnish a copy of the authorizing order of the court, if any.

A-5 Balance sheet statement as of the latest available date, but not earlier than six months prior to the filing of this application.

A-6 Analysis of intangible property accounts including for each item the date of acquisition, source of authority, account in which presently recorded, amounts, reserve, and policy and practice followed with respect to amortization of intangible property.

A-7 Analysis of investment and advances-affiliated companies' account in exhibit A-5, in form of supporting schedule contained in the Commission's Class I and Class II motor carrier annual report forms.

A-8 Income statement for current calendar year to date of the balance sheet in exhibit A-5, and for each of the two preceding calendar years.

## INFORMATION REGARDING CARRIER TO BE CONTROLLED, AND ITS AFFILIATES, IF ANY, ENGAGED IN AN ACTIVITY CONNECTED WITH TRANSPORTATION, OF WHICH CONTROL WOULD BE ACQUIRED

If control of more than one carrier is proposed to be acquired, attach appendices and mark for identification BB, BBB, etc.

1. Date and State of incorporation, formation, or organization of carrier to be controlled:

Date \_\_\_\_\_ State \_\_\_\_\_

2. Is there any financial or other relationship existing between applicant and carrier, control of which is proposed to be acquired? [ ]YES [ ]NO If answer is "yes" explain:

3. Describe fully the motor-carrier operating rights of the carrier, control of which is proposed to be acquired, furnishing numbers assigned by the Interstate Commerce Commission, or attach copy of the certificate(s), permit(s), or certificate of registration issued to the carrier to be controlled.

4. Are operations being conducted by the carrier to be controlled under the described motor-carrier operating rights? [ ]YES [ ]NO If answer is "no," explain and state whether applicant will file affidavits of shippers, or present shipper witnesses if a hearing is deemed necessary, to support reactivation of the dormant operating rights.

5. If the operating rights of the carrier, control of which is proposed to be acquired, duplicate to any extent those presently held by applicant, or, if a non-carrier, those presently controlled by applicant, explain the manner in which applicant proposes to eliminate the duplications.

## RULES AND REGULATIONS

6. Is it proposed to acquire control or any person engaged in an activity, such as an equipment or terminal company, connected with transportation by the carrier of which control is sought to be acquired? [ ] YES [ ] NO If answer is "yes," describe the nature and scope of the activity of this person: \_\_\_\_\_

The data requested below, identified as indicated, must be furnished respecting the carrier to be controlled.

- Attach to original and each copy: (If documents were specified have been previously filed with the Interstate Commerce Commission in connection with an application, it will be sufficient to make reference to the docket number under which filed. Any changes occurring since the filing shall be shown in a separate statement attached and identified to correspond with the specific appendix requested here.)
- B-1. Balance sheet statement as of latest available date, but not earlier than six months prior to the filing of this application.
- B-2. Analysis of intangible property accounts including for each item, date of acquisition, source of authority, account in which presently recorded, amounts, reserve, and policy and practice followed with respect to amortization of intangible property.

- B-3. Income statement for current calendar year to date of the balance sheet in Appendix B-1.

- B-4. If transferor is a carrier of property, submit an abstract showing interstate shipments transported during the 6 months preceding the filing of the application under the operating authority involved in the proposed transaction. Do not include intrastate shipments. The abstract must include all shipments transported during the period selected as representative (e.g., all shipments within the entire period; or, all on the same date of each week of the period; or, all for a like week of each month of the period, etc.). Each page of the abstract must include columns showing the following information for

- each shipment listed:
1. A separate number beginning with "1";
  2. The pro number of the supporting freight bill; 3. The date of the shipment;
  4. The origin of the shipment if not originated by transferor;
  5. The origin of the shipment if originated by transferor, or, the point at which transferor received the shipment through interchange if originated by another carrier;
  6. The destination of the shipment delivered by transferor, or, the point at which transferor interchanged the shipment for delivery by another carrier;
  7. The destination of the shipment if delivered by a carrier other than the transferor;
  8. The commodity;
  9. The weight of the shipment.
- Each page should show the total weight of all shipments thereon. The abstract shall be accompanied by a summary reflecting total number of shipments and weight between origin and destination point. If regular routes are involved the summary shall indicate the routes over which the shipments moved.

The data requested below, identified as indicated, must be furnished respecting each affiliate of the carrier engaged in any activities connected with transportation, of which control would be acquired.

Attach to original and each copy:

- B-5. Balance sheet statement as of the latest available date, but not earlier than 6 months prior to the filing of this application.
- B-6. Income statement for current calendar year to the date of the balance sheet in Appendix B-5.

- RULES AND REGULATIONS
- 17695

## APPENDIX D

## NATURE OF PROPOSED TRANSACTION AND TERMS AND CONDITIONS

Attach to original and each copy of this application the following information:

C-1. Copy of every contract or other written instrument entered into, or proposed to be entered into, pertaining to the transaction, or if not contained in written contract or other instrument, statement containing detailed description of the transaction.

C-2. Statement explaining how applicant proposes to meet the financial requirements of the transaction, including the amount, maturity, interest rates, other terms and conditions of any loan and whether a promissory note or other security will be issued.

C-3. Map showing all operations of applicant, carrier to be controlled, and affiliates of either, if any, as of date of application, and identifying their respective routes by distinguishing colors. If the operations are such that they cannot be shown on a map feasibly, it may be omitted.

C-4. If application involves the issuance of securities or assumption by applicant of obligations as guarantor or otherwise in regard to securities of others, statement indicating (a) which of the obligations of applicant as shown on its balance sheet of record are evidenced by securities within the meaning of 49 U.S.C. 11302, and (b) the fair market value of applicant's capital stock as of the dates of issue.

## FACTS AND CIRCUMSTANCES ON WHICH APPLICANT RELIES TO WARRANT APPROVAL OF THE PROPOSED TRANSACTION

Attach to original and each copy of this application the following information:

C-5. Copy of every contract or other written instrument entered into, or proposed to be entered into, pertaining to the transaction, or if not contained in written contract or other instrument, statement containing detailed description of the transaction.

D-1. Explain and support the reasonableness of the consideration involved in the proposed transaction.

D-2. Show the effect of the proposed transaction upon adequate transportation service to the public.

D-3. Show the total fixed charges incurred as a result of the proposed transaction, and the manner in which it is proposed to meet these charges, and that the increase of applicant's total fixed charges resulting from the proposed transaction would not be contrary to the public interest.

D-4. Establish that any guaranty or assumption of payment of dividends or fixed charges contemplated in the transaction is consistent with the public interest.

D-5. Show the effect of the transaction on the interests of the carrier employees affected.

D-6. Establish that the transaction will be consistent with the public interest.

D-7. If applicant is a carrier by railroad subject to the Interstate Commerce Act, or a person which is controlled by or affiliated with such a carrier show that the proposed transaction will enable the carrier by railroad to use service by motor vehicle to public advantage in its operations and will not unduly restrain competition.

D-8. Indicate whether the proposed transaction would result in dual operations, or the extension of these operations by applicant, or by applicant and any persons controlling, controlled by, or under common control with applicant.

I certify that I have delivered a copy of this application, in person or by mail, to the following Regional Managing Director(s) of the Commission's Bureau of Operations for the Region(s) in which the headquarters of the carriers involved in the application are located.

Regional Managing Directors      Address  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

I further certify that a summary of the application was delivered, in person or by first-class mail, to the appropriate State Board (or official) of the State in which the headquarters of the carriers are located:

Name of State Board

Address  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.  
 \_\_\_\_\_

Signature \_\_\_\_\_

1. REFERENCE - See 49 U.S.C. 11343.

2. FILING FEE - Applicants must submit with the application a check or money order made out to the Interstate Commerce Commission for the amount listed at 49 C.F.R. 1002.2.

3. FORM - If this form is not used, application shall be typewritten or printed on paper 8-1/2 inches wide and 13 inches long, with a margin of 1-1/2 inches on the left side and 1 inch on the right side. Indent quotations and use only one side of the paper. White-line blueprints which cannot be reproduced by photography are not acceptable.

4. APPENDICES - Shall be folded to conform to the size of the application.

5. MANNER OF EXECUTION - The original application shall be signed in ink by applicants, if individuals; by all partners, if a partnership; and if corporations, associations, or other similar forms or organization, by executive officers having knowledge of all matters contained therein and designated for that purpose by applicant.

6. NUMBER OF COPIES - File with the Interstate Commerce Commission at Washington, D.C. 20423, the original and three copies of each application. Concurrently furnish one copy to each of the Regional Managing Directors of the Commission's Bureau of Operations in which are located the headquarters of the carriers involved in the application, and upon written request, to the Board, Commission, or Official (or to the Governor where there is no Board, Commission, or Official) having the authority to regulate the business of transportation by motor vehicle in each State, in or through which operations may be conducted under the operating authorities involved in the application. Signatures on the copies may be stamped or typed. A summary of the application, as provided in 49 CFR 1100.240(b), shall be delivered by first-class mail to the appropriate official (described above) of the States in which the headquarters of the applicants are located.

7. NOTICE TO COMPETITORS - Applicants are not required to give notice to competitors. Notice to interested persons of the filing of the application will be given by publication of a summary of the authority sought in the FEDERAL REGISTER.

8. AMENDMENTS - Except for good cause shown, amendments to applications which broaden the scope of the proposed transaction will not be permitted if tendered after notice of the filing of the application has been published in the Federal Register. Restrictive amendments may be submitted at any time, but if tendered after publication, they may be allowed only in the discretion of the Commission, or by the Administrative Law Judge if the matter is assigned for hearing or pre-hearing conference.

9. WHEN ADDITIONAL SPACE REQUIRED - Attach to the application supplemental sheets, making specific reference to the supplements.

10. INFORMATION REQUIRED - Must be given unless not known or available, or if not applicable. In such case, however, explicit statement to this effect shall be made in the application in lieu of the omitted material, setting forth the reasons why the information has not been given.

11. HEARING - Requests for postponement, or change of location of a hearing, should be made at least 10 days prior to the scheduled date of hearing, and good cause for the requested change should be stated. An ample supply of exhibits to be used at a hearing should be prepared so that copies are available for all parties. Where practicable, they should be distributed in advance.

12. RELATED APPLICATIONS - Applicant shall bring to the Commission's attention any certificate or permit it seeks (under the OP-OR-9 application procedure) which is directly related to the proposed transaction.

13. FEDERAL REGISTER SUMMARY - The applicant will prepare a summary of the authority sought for the Federal Register. The Commission will advise applicant if the summary does not properly describe the transaction (49 CFR 1100.240(b)).

## BEFORE THE INTERSTATE COMMERCE COMMISSION

APPLICATION FOR APPROVAL UNDER 49 U.S.C. 11349 OF THE TEMPORARY OPERATION OF MOTOR-CARRIER PROPERTIES SOUGHT TO BE ACQUIRED UNDER SEPARATELY FILED APPLICATIONS UNDER 49 U.S.C. 11343, 11344 OR TRANSFERS OF MOTOR CARRIER CERTIFICATES AND PERMITS UNDER 49 U.S.C. 10926.  
(Please read instructions on page before preparing)

DOCKET NO. MC-F

or

DOCKET NO. MC-PC  
(For office use only)

I. A. Application of \_\_\_\_\_  
(Full name of transferee, including any ICC permit or certificate numbers.)

7 STATE WHETHER CORPORATION, PARTNERSHIP, INDIVIDUAL, TRUSTEE, RECEIVER OR ASSIGNEE)  
DOING BUSINESS AS \_\_\_\_\_  
(Trade name)

NUMBER & STREET) \_\_\_\_\_ (CITY) \_\_\_\_\_ (STATE) \_\_\_\_\_ (ZIP CODE)  
FOR AUTHORITY TEMPORARILY TO OPERATE MOTOR CARRIER PROPERTIES<sup>2</sup> OF  
B. \_\_\_\_\_  
(Full name of transferor, including any ICC permit or certificate number<sup>3</sup>)

<sup>1</sup> Includes (a) lessee of properties temporarily to be operated, and (b) person who proposes to control operations temporarily.

<sup>2</sup> Includes lease of operating rights only where transfer is sought under 49 U.S.C. 10926.

<sup>3</sup> Includes (a) lessor of properties temporarily to be operated, and (b) carrier whose operations are temporarily to be controlled.

(State whether corporation, partnership, individual, trustee,  
receiver or assignee)

OATH

doing business as \_\_\_\_\_ (Trade name)

COUNTY OF \_\_\_\_\_ )  
STATE OF \_\_\_\_\_ ) ss:

Number & Street) (City) (State) (ZIP Code)

II. Will granting the authority sought in this application constitute a major Federal action having a significant effect upon the quality of the human environment? [  YES ]  NO  
C.P.R. 1108 must be attached to this application.

III. Facts and circumstances relied upon to establish that failure to grant temporary authority may result in destruction of or injury to motor carrier properties sought to be acquired, or to interfere substantially with their future usefulness in the performance of adequate and continuous service to the public shall be attached as Exhibit A.

IV. Terms and conditions of lease covering properties temporarily to be operated, or agreement covering operations temporarily to be controlled, are set forth in written instrument, executed as Exhibit B.

V. All correspondence with respect to this application shall be sent to:

(Full name)

\*Title and name of company; if attorney, so state)

(Business address or person to be addressed)

## RULES AND REGULATIONS

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ATTENTION: Knowing and willful misstatements or omissions of material facts constitute Federal criminal violations punishable by imprisonment and fines. (See 18 U.S.C. 1001.)

Each person signing this application swears or affirms that the representations made are to the best of his/her knowledge and belief, true and complete.

Signature of Transferor \_\_\_\_\_

Signature \_\_\_\_\_

My Commission expires \_\_\_\_\_ .

(SEAL)

Signature \_\_\_\_\_

CERTIFICATE OF SERVICE

INSTRUCTIONS

17700

I, \_\_\_\_\_, CERTIFY that upon the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, a copy of this application was delivered in person or by mail, to the following Regional Managing Director(s) of the Bureau of Operations, in which are located the headquarters of the carriers involved in the application.

I further certify that a summary of the application was delivered, in person or by first-class mail, to the appropriate State Board (or official) of the State in which the headquarters of the applicants are located:

Name of State Board \_\_\_\_\_

Address \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.  
Signature \_\_\_\_\_

1. REFERENCE - See 49 U.S.C. 11349 and 10926.

2. FEES - Applicant must submit with the application a check or money order made out to the Interstate Commerce Commission for the amount listed at 49 C.F.R. 1002.2.

3. FORM - If this form is not used, the application shall be typewritten or printed on paper 8-1/2 inches wide and 13 inches long, with a margin of 1-1/2 inches on the left side and 1 inch on the right side. Indent quotations and use only one side of the paper. White-line blueprints which cannot be reproduced by photography are not acceptable.

4. EXHIBITS - Shall be folded to conform to the size of the application.

5. MANNER OF EXECUTION - The original application shall be signed in ink by applicants, if individuals; by all partners, if a partnership; and if corporations, associations, or other similar forms of organization, by executive officers having knowledge of all matters contained therein and designated for that purpose by applicant.

6. NUMBER OF COPIES - File with the Secretary of the Interstate Commerce Commission at Washington, D.C. 20423, the original and three copies of each application. Concurrently furnish one copy to each of the Regional Managing Directors of the Commission's Bureau of Operations in which are located the headquarters of the carriers involved in the application, and upon written request, to the Board, Commission, or Official (or to the Governor where there is no Board, Commission or Official) having the authority to regulate the business of transportation by motor vehicle in each State in which the carriers operate. Signatures on the copies may be stamped or typed. A summary of the application shall be delivered by first-class mail to the appropriate official (described above) of the State in which the headquarters of applicants are located.

7. NOTICE TO COMPETITORS - Applicants are not required to give notice to competitors. Notice to interested persons of the filing of the application will be given by the publication of a summary of the authority sought in the FEDERAL REGISTER. This summary will be prepared by the Interstate Commerce Commission.

8. WHEN ADDITIONAL SPACE REQUIRED - Attach to the application supplemental sheets, making specific reference to the supplements in the form. Do not paste riders to any page.

9. LEASE OR OTHER AGREEMENT - The written instrument filed as Exhibit B should provide for a specific monetary monthly rental or management fee commensurate with the value of the properties to be temporarily operated. Temporary authority should not be requested for the purpose of making legal a violation of 49 U.S.C. 11343.

10. GENERAL - No consideration can be accorded an application for temporary authority under 49 U.S.C. 11349 unless a corresponding application under 49 U.S.C. 11343 has been filed.

FORM OP-F 200 (Rev. )

BEFORE THE INTERSTATE COMMERCE COMMISSION  
APPLICATION UNDER 49 U.S.C. 11301 AND 49 U.S.C. 11302 FOR  
AUTHORITY TO ISSUE SECURITIES, OR TO ASSUME OBLIGATION OR  
LIABILITY IN REGARD TO SECURITIES OF ANOTHER PERSON  
(Read instructions before answering)

No. FD  
(For office use only)

- I. (a) Application of \_\_\_\_\_ (Full Name)  
whose business address is \_\_\_\_\_ (Street Address)  
\_\_\_\_\_  
(City) \_\_\_\_\_ (State) \_\_\_\_\_ (Zip Code)
- (b) Applicant's representative to whom inquiries may be made is:  
\_\_\_\_\_  
(Full Name)  
\_\_\_\_\_  
(Street Address)  
\_\_\_\_\_  
(City) \_\_\_\_\_ (State) \_\_\_\_\_ (Zip Code)
- II. (a) Will granting the authority sought in this application have a significant effect upon the quality of the human environment? [ ]YES [ ]NO  
If YES, a statement complying with the requirements of 49 C.F.R. 1108 must be attached.
- (b) Is this application a major regulatory action under the Energy and Conservation Act of 1975? (Refer to 49 C.F.R. 1106.1 through 1106.6, especially 1105.5). [ ]YES [ ]NO

If YES, attach information as to why this proceeding is a major regulatory action, and a description of important energy impacts.

#### SUPPORTING DOCUMENTS

The following statements and information, identified by item numbers and letters corresponding to those in this form, are to be submitted by applicant:

III. State whether applicant is a carrier by railroad, a common or contract carrier by motor vehicle, a corporation organized for the purpose of engaging in transportation as any such carrier, a sleeping-car company, or a holding company, as defined in the General Instructions. If a motor carrier, give lead docket number.

IV. Describe briefly the securities proposed to be issued or obligation or liability proposed to be assumed.

V. List the States in which the applicant carrier operates or is authorized to do business, or in which the applicant holding company is incorporated or authorized to do business.

VI. List by docket number any related Finance proceedings pending or to be filed.

#### RULES AND REGULATIONS

##### ITEM 1. GENERAL INFORMATION REGARDING APPLICANT.

(a) Date and State of incorporation, or other organization.

(1) If applicant is incorporated or organized under the laws of, or authorized to operate in, more than one State, give all pertinent facts as to incorporation or organization.

(2) If authorization to a new, reorganized, or consolidated corporation which is not in existence is sought, name the jurisdiction under the laws of which the corporation would be organized, reorganized, or consolidated.

(3) If applicant is a trustee, receiver, assignee, or other fiduciary, name the court, if any, under the direction of which applicant is acting, and state the nature of the proceeding, if any, in which the applicant was appointed.

(b) File with the original application (but not with the copies) one or more of the following documents as appropriate. See 49 CFR 1100.80 for the rule regarding incorporation by reference.

(1) Copy of charter or articles of incorporation, with amendments to date, duly certified by the appropriate public officer; and copy of bylaws, with amendments to date.

(2) If applicant is not a corporation, copy of articles of agreement, or association, or trust agreement, evidencing organization.

(3) If applicant is a trustee, receiver, assignee, or other fiduciary, copy of duly certified order of the court, or instrument of appointment.

##### ITEM 2. FINANCIAL STATEMENTS.

(a) Applicant's general balance sheet as of the latest practicable date.

(b) If applicant is a motor carrier, a corporation organized for the purposes of engaging in transportation as a motor carrier, or motor carrier holding company, and the value (fair market value as of date of issue, or par value, whichever is greater) of its capital stock outstanding as of the date of balance sheet does not exceed \$1,000,000 it must furnish a statement showing as of that date the extent to which its liabilities other than capital stock are represented by notes or other securities. Described these notes and securities.

- (c) Applicant's income and profit and loss statement for the last calendar year, (unless a copy is on file in its annual report with the Commission or in another proceeding to which reference is made). Also submit a copy of this statement for the current calendar year to the latest available date.
- ITEM 2. GENERAL DESCRIPTION OF THE SECURITIES WITH RESPECT TO WHICH THE APPLICATION IS MADE.**
- (a) If the application covers the issue of stock, the description shall include:
    - (1) The kind and class of stock
    - (2) The number of shares authorized, outstanding, and to be issued
    - (3) Par value of each share and/or stated value, if having no par value
    - (4) Amount
    - (5) Voting rights
    - (6) Preferences
    - (7) Conversion privileges
    - (8) Call provisions
    - (9) Liquidation rights
    - (10) Whether it is assessable
  - (b) If the application covers the issue of securities other than stock, the description shall include:
    - (1) Full title of the securities
    - (2) Title and date of the indenture, if any, under which the securities are to be issued and the name of the trustee or trustees under the indenture
    - (3) Principal amount authorized, previously issued, and proposed to be issued under the indenture
    - (4) Denominations of the securities to be issued
    - (5) Date of securities
    - (6) Interest rate or rates
    - (7) Interest payment dates
    - (8) Date or dates of maturities, with amounts maturing on each date, if maturing serially
    - (9) Reference to the provisions of the indenture, if any, under which the securities will be issued, permitting the proposed issue of securities, and relating to sinking funds, redemption features, and conversion rights.
    - (c) Specimens, or forms where specimens are not available, of all securities with respect to which the application is made.
    - (d) In case of the issue or assumption of bonds or evidence of indebtedness, a copy of the mortgage or indenture by which secured or proposed to be secured.
- ITEM 4. PURPOSE OF THE PROPOSED ISSUE OR ASSUMPTION, AND USES OF THE PROCEEDS.**
- A statement showing the amount of net proceeds intended to be used with respect to one or more of the purposes specified below:
- (a) THE ACQUISITION OF PROPERTY OTHER THAN EQUIPMENT: A statement containing:
    - (1) A general description of the character, size, and location of the property, and the name and address of the person from whom it is to be acquired; and

## RULES AND REGULATIONS

(2) The actual or estimated costs to applicant of acquisition of the property, classified by Interstate Commerce Commission primary accounts; full terms of the contract, if any has been made, for such acquisition; and date necessary for a determination of the reasonableness of such costs.

## (b) THE ACQUISITION OF EQUIPMENT:

(1) A full description of the equipment by type or design of unit, size, capacity, builder, year built, and name and address of the person from whom it is to be acquired; and

(2) The unit prices paid or to be paid free on board builder's plant; whether the equipment was purchased through competitive bidding; and, if the unit prices shown are not the lowest bids received, the reason for accepting a higher bid.

(c) THE CONSTRUCTION, COMPLETION, EXTENSION OR IMPROVEMENT OF FACILITIES, OR ADDITIONS AND BETTERMENTS BY A COMMON CARRIER BY RAILROAD (accomplished expenditures or expenditures not yet made):

(1) The period covered by the expenditures

(2) The purpose of the expenditures

(3) The amount of proposed expenditures or expenditures made but not yet capitalized and credits by reason of retirements within the period:

(4) The distribution of the total cost by the primary accounts of the Commission's classification of investment in road and equipment

(d) THE DISCHARGE OR REFUNDING OF EXISTING OBLIGATIONS: A statement containing a description of sale or other disposition of existing obligations (including notes issued pursuant to the exemptions in 49 U.S.C. 11301 and 11302). Describe terms and conditions, discounts, and commissions, counsel fees, and other expenses.

(e) THE REIMBURSEMENT OF MONEY EXPENDED FROM INCOME OR FROM OTHER MONIES IN THE TREASURY OF THE APPLICANT (including proceeds of notes maturing and issued as described in the preceding paragraph), NOT YET CAPITALIZED.

(1) The period covered by the total disbursement

(2) The purposes of the disbursements

(3) The amount of disbursements (gross capital charge) and all credits to capital account within the period

(4) The primary accounts of the Commission's classification to which the disbursements or retirements were charged or credited

(f) OTHER PURPOSES: A statement containing complete details of the purposes of the proposed issue or assumption. ITEM 5. THE FACTS AND CIRCUMSTANCES ON WHICH THE APPLICANT RELIES.

(a) If the applicant is a carrier or a corporation organized for the purpose of engaging in transportation as a carrier--

To establish that the proposed issue or assumption (1) is for some lawful object within its corporate purposes, compatible with the public interest, necessary or appropriate for or consistent with the proper performance by the carrier of service to the public as a motor carrier, and (2) is reasonably necessary and appropriate for this purpose.

(b) If the applicant is a non-carrier person, who is authorized to control a carrier--

To establish that the proposed issue or assumption is consistent with the proper performance of its service to the public by each carrier under the control of the person, and will not impair the ability of the carrier to perform service and is consistent with the public interest.

(c) If the application is filed with respect to a class of railroad securities as to which competitive bidding is prime facie required,<sup>17</sup> and exemption from this requirement is sought--

<sup>17</sup> Pertinent conclusions and the requirements are set forth in the Commission's report, In Re Competitive Bidding in Sale of Securities, 25 I.C.C. 729, as modified by findings in Atlantic Coast Line R. Co. Competitive Bidding in Sale of Securities, 282 I.C.C. 513, and further modified in In Re Competitive Bidding in Sale of Securities, 307 I.C.C. 1. Also see Western Maryland Equipment Trust, 111 I.C.C. 437, and Section 10 of the Clayton Act, 15 U.S.C., Section 20. The exemption process is set forth in 49 CFR 1115.25, and Form OP-F 210.

To show that competitive bidding should not be required in the sale or other disposition of the proposed securities, including a statement that applicant has not entered into any discussion or any negotiations with respect to the terms of sale with any prospective purchaser of its securities.

(d) If the application is to sell railroad securities without competitive bidding on the ground that such securities come within one of the specific exemptions--

To show that the exemption applies.

**ITEM 6. TERMS OF SALE OR OTHER DISPOSITION, AND ESTIMATE OF EXPENSES.**

(a) At what prices or rates and upon what terms the securities will be sold.

(b) An estimate of the expenses applicant will incur in connection with the sale, itemized to show:

(1) The commissions to be paid, discounts to be allowed, and the total of commissions and discounts,

(2) Legal accounting, engineering, certification, authentication, and other expenses, and total expenses. Where the amounts of the items grouped under "other expenses" are substantial, they must be itemized.

(3) The grand cost of commissions, discounts, and expenses.

**ITEM 7. CONTRACTS, UNDERWITTINGS, AND OTHER ARRANGEMENTS.**

Describe how, and to whom, and by or through whom, the securities will be issued. Give details of all contracts, underwritings, and other arrangements.

If a public offering is involved, applicant shall provide the information called for in the circular entitled "Appendix, Form OP-F-200".

Section 308 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210) provides for the removal of railroad securities (other than those concerning a railroad equipment trust) from the exemption they previously had from the requirements of the Securities Act of 1933. For public disclosure purposes, these railroad securities are subject to

the jurisdiction of the Securities and Exchange Commission. However, a railroad still must file with this Commission all material filed with the SEC. In the event it claims that the offer and sale of the securities are exempt from registration under the Securities Act of 1933, an opinion from counsel shall state this, indicate the section of that Act (or rule) containing the claimed exemption, and state pertinent facts relied upon.

**ITEM 8. RESOLUTIONS AND OTHER AUTHORIZATIONS.**

(a) Copies of all resolutions of directors authorizing the proposed issuance of securities or the proposed assumption of obligation or liability for which authority is requested.

(b) If the charter or bylaws require approval by stockholders, copies of resolutions of stockholders, authorizing issuance or assumption. Resolutions of stockholders shall be accompanied by sufficient transcripts of the minutes of their meetings to show the number of shares voted for and against the resolutions, and the number of share-votes required to adopt the resolution.

(c) Copies of resolutions of stockholders or directors, or duly authorized committees, authenticated by a proper executive officer of applicant, designating the executive officer by whom the application is signed, verified, and filed on behalf of the applicant.

(d) If applicant is not a corporation, documentary evidence showing authorization of the proposed issuance or assumption and designation of the individual signing, verifying, and filing on behalf of applicant; and

(e) If applicant is a trustee, receiver, assignee, or other fiduciary, a certified copy of the order, if any, of the court having jurisdiction, authorizing the proposed issuance or assumption, and the filing of the application.

**ITEM 9. OPINION OF COUNSEL.**

Opinion that the issuance or assumption meets the requirements of the law as set forth in Item 5, and will be legally authorized and valid if approved by the Commission, with specific reference to any pertinent provisions of charter or articles of incorporation or association.

**ITEM 10. SIGNATURE.**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.  
By \_\_\_\_\_ Title \_\_\_\_\_

**RULES AND REGULATIONS**

## RULES AND REGULATIONS

COUNTY OF \_\_\_\_\_  
STATE OF \_\_\_\_\_)ss:

(Name of Affiant) \_\_\_\_\_, being duly sworn, states: I have filed this application as (indicate relationship to applicant)

OATH \_\_\_\_\_ certifies that upon the \_\_\_\_\_ day  
of \_\_\_\_\_, 19\_\_\_\_\_, a copy of the foregoing applica-  
tion was mailed or delivered in person to the Governor of  
each State in which the applicant operates or is authorized  
to do business, as follows:

I also certify that the Governor of each State has been  
advised that if they desire to make any representations, to  
notify the Commission within 15 days.

I am qualified and authorized to sign, file and verify  
this application and the attached exhibits. I have examined  
all of the statements in the application, and they are true  
and complete to the best of my knowledge.

Knowing and willful misstatements or omissions of  
material facts constitute Federal criminal violations  
punishable by up to five years imprisonment and fines up  
to \$10,000 for each offense. (See 18 U.S.C. 1001.)

(Signature of Affiant)

Subscribed and sworn to before me, a \_\_\_\_\_  
In and for the State and County above, named, this \_\_\_\_\_ day  
of \_\_\_\_\_ 19\_\_\_\_\_.  
(SEAL)

My Commission expires \_\_\_\_\_

(Signature) \_\_\_\_\_ (Date) \_\_\_\_\_

GENERAL INSTRUCTIONS

FORM 08-E210 (REVISED)

## **RULES AND REGULATIONS**

17707

1. USE OF FORM OP-P 200. All carriers and other persons subject to 49 U.S.C. 11301 or 49 U.S.C. 11302 making application for authority (a) to nominally issue securities, (b) to sell, pledge, repudiate, or otherwise dispose of securities nominally issued or assumed or nominally outstanding, (c) to actually issue securities, or (d) to assume any obligation or liability as lessor, lessee, guarantor, endorser, surety, or otherwise in respect of the securities of any other person nominally outstanding, shall make application substantially in the form of Form OP-P 200.
  2. APPLICATION OF GENERAL RULES AND REGULATIONS. Before undertaking the preparation of the application, refer to the rules set forth at 49 CFR 1115.
  3. DEFINITIONS:
    - (a) The term "holding company" means a person which is not a carrier, but which is authorized by the Interstate Commerce Commission to control a carrier or carriers and, as provided in 49 USC 11348, is to be considered a carrier.
    - (b) The term "nominally issued", "nominally outstanding", "actually issued" and "actually outstanding" are defined in 49 C.F.R. 1201.

**BEFORE THE INTERSTATE COMMERCE COMMISSION**  
**SPECIAL APPLICATION FOR AUTHORITY TO SELL SECURITIES**  
**WITHOUT COMPETITIVE BIDDING**  
**(Read Instructions on Page 2)**

2. APPLICATION OF GENERAL RULES AND REGULATIONS. Before undertaking the preparation of the application, refer to the rules set forth at 49 CFR 1115.

### B. DEFINITIONS:

(a) The term "holding company" means a person which is not a carrier, but which is authorized by the Interstate Commerce Commission to control a carrier or carriers and, as provided in 49 USC 11348, is to be considered a carrier.

(b) The term "nominally issued", "nominal outstanding", "actually issued" and "actually outstanding" are defined in 49 C.F.R. 1201.

The following information is submitted by applicant in support of its request for exemption from the competitive bidding requirements:

1. General description and amount of the securities for which exemption is sought.

2. Purpose and use of the proposed issue and proceeds.

3. States in which applicant operates or proposes to operate.

4. Related finance proceedings before the Commission.  
Give docket number, if known.

5. Date of organization and State(s) under the laws of which applicant was organized and received its present charter(s).

b. Facts relied upon by applicant to show that competitive bidding should not be required in the sale or other disposition of the proposed securities. Include a statement that applicant has not entered into discussion or negotiation with respect to the terms of sale with any prospective purchaser of its securities.

7. Why the special application is necessary.

## RULES AND REGULATIONS

## OATH

II. Will granting the authority sought in this application have a significant effect upon the quality of the human environment?  YES  NO  
If YES, a statement complying with the requirements of 49 CFR 1708 must be attached.

III. Is this application a major regulatory action under the Energy Policy and Conservation Act of 1975? (Refer to 49 C.F.R. 1106.1 through 1106.6, especially 1106.5.)

YES  NO

If YES, attach information as to why this proceeding is a major regulatory action, and a description of important energy impacts.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

\_\_\_\_\_  
BY \_\_\_\_\_  
TITLE \_\_\_\_\_

COUNTY OF \_\_\_\_\_  
STATE OF \_\_\_\_\_  
} ss:

(Name of Affiant) \_\_\_\_\_, being duly sworn, states: I am the

(Title of Affiant) \_\_\_\_\_ of \_\_\_\_\_ (Name of Respondent)

Knowing and Willful misstatements or omissions of material facts constitute Federal criminal violations punishable by up to 5 years imprisonment and fines up to \$10,000 for each offense. (See 18 U.S.C. 1001.)

(Signature of Affiant)

Subscribed and sworn to before me, a \_\_\_\_\_ in the State and County above named, this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(SEAL)

My Commission expires \_\_\_\_\_

certifies that upon the \_\_\_\_\_ day  
of 19, a copy of the application was  
mailed or delivered in person to the Governor of the State in  
which the applicant operates or is authorized to do business,  
or in the case of holding companies, of each State in which  
the applicant is incorporated or authorized to do business,  
as follows:

I certify that the Governors of these States have been  
advised that, if they desire to make any representations, to  
notify the Commission within 15 days.

(Date)

(Signature)

USE OF FORM OP-F 210. This form should be used in  
making application for exemptions from the competitive  
bidding requirement only when it is not practicable to  
include the request for exemption in an application filed  
in Form OP-F-200 for authority under 49 U.S.C. 11301 to  
issue securities.

COMPETITIVE BIDDING REQUIREMENT. The requirement that,  
with certain specified exceptions, all classes of railroad  
securities other than equipment, issued under authority  
granted pursuant to the provisions of 49 U.S.C. 11301, be  
offered for sale at competitive bidding, is set forth in 49  
OPR 1115.25. Refer to this before starting preparation of  
the application. If the space provided in the form is not  
sufficient to supply the information required, use a separate  
sheet, attach it to the application, and give it the same  
number as the paragraph to which it relates.

[FEDERAL REGISTER Doc. 79-8767 Filed 3-22-79; 8:45 am]

[3510-22-M]

**Title 50—Wildlife and Fisheries****CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE****PART 226—DESIGNATED CRITICAL HABITAT****Determination of Critical Habitat for the Leatherback Sea Turtle**

**AGENCY:** National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

**ACTION:** Final rule.

**SUMMARY:** The National Marine Fisheries Service (NMFS) determines critical habitat for the leatherback sea turtle (*Dermochelys coriacea*) in waters adjacent to Sandy Point Beach, St. Croix, U.S. Virgin Islands. The action is being taken under Section 7 of the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.* (the "Act") to provide protection to sea turtles using these waters for courting, breeding, and as access to and from their nesting areas on Sandy Point Beach. All Federal departments and agencies are required to insure that actions authorized, funded, or carried out by them do not result in the destruction or adverse modification of the critical habitat.

**DATES:** This rule becomes effective on March 31, 1979.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard B. Roe, Acting Deputy Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Washington, D.C. 20235, (202) 634-7287.

**SUPPLEMENTARY INFORMATION:** On November 29, 1978 (43 FR 55806), the National Marine Fisheries Service (NMFS) published a proposed determination of critical habitat for the leatherback sea turtle (*Dermochelys coriacea*). This critical habitat was described as:

The waters adjacent to Sandy Point, St. Croix, U.S. Virgin Islands, up to and inclusive of the waters from the hundred fathom curve shoreward to the level of mean high tide with boundaries at 17°42'12" North and 64°50'00" West.

The leatherback sea turtle has been listed as endangered since 1970 (35 FR 19320). Although the leatherback spends most of its life in waters of 150

**RULES AND REGULATIONS**

feet depth or greater, it comes ashore to nest and lay eggs.

Courtship and mating are believed to occur in waters adjacent to nesting beaches just prior to the time of egg laying. Accordingly, the survival and recovery of the leatherback depends on the maintenance of suitable and undisturbed nesting beaches and protection of waters adjacent to those beaches.

During the early summer of 1977 the U.S. Fish and Wildlife Service (FWS) identified a nesting aggregation of leatherback sea turtles occurring at the western end of the island of St. Croix, U.S. Virgin Islands. Personnel of the FWS, NMFS, U.S. Coast Guard, and Government of the Virgin Islands conducted observation on St. Croix during the month of June. In excess of 70 leatherback nests were discovered on the 0.8 mile by 0.1 mile strip of Sandy Point Beach during these observations. This area constitutes a major beach under U.S. jurisdiction used for nesting by the endangered leatherback. The FWS designated Sandy Point Beach on St. Croix as critical habitat for the leatherback sea turtle on September 26, 1978 (43 FR 43688).

Pursuant to an agreement between the FWS and the NMFS, the FWS has jurisdiction over sea turtles on the land and the NMFS over sea turtles in the marine environment. These regulations designate as critical habitat an area of the marine environment adjacent to a nesting beach previously designated as critical habitat by the FWS.

The Endangered Species Act Amendments of 1978 define the term "critical habitat" as follows:

(i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of this Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management consideration or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provisions of section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

Since the area designated as critical habitat is used by the leatherback for courting and mating activities and provides an access to and from an important nesting beach, the NMFS believes the area is essential for the conservation of the leatherback sea turtle and requires special management protection. As such, these waters qualify for designation as critical habitat under the Endangered Species Act, as amended.

**REVIEW OF RELEVANT IMPACTS AND SUMMARY OF COMMENTS AND RECOMMENDATIONS**

In the proposal to designate this area as critical habitat, it was noted that NMFS was unaware of any current plans to develop this area. In the course of this rulemaking, efforts were made to obtain information concerning all economic and other relevant impacts of the proposed designation and all public and private activities which may adversely modify the critical habitat or may be impacted by this designation. To this end, notice of the proposed designation appeared in Virgin Islands newspapers, was distributed to local government personnel, and written comments were solicited from the public. Consultation with the U.S. Coast Guard, U.S. Navy, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, and Government of the U.S. Virgin Islands indicated that the proposed designation would generate no significant impacts. A public meeting regarding the proposed designation was held, as required under the 1978 amendments to the Act, in Fredericksted, St. Croix on December 5, 1978 (43 FR 55806).

The meeting was attended by 11 individuals representing the NMFS; the U.S. Fish and Wildlife Service; Department of Conservation and Cultural Affairs (DCCA), U.S. Virgin Islands; the West Indies Laboratory of Fairleigh Dickinson University in St. Croix; and interested members of the public. None of the attendees expressed opposition to the proposal.

At the public meeting, representatives of DCCA indicated that several species of sea turtles nest on 42 of 43 identified beaches on St. Croix. The NMFS has requested DCCA to provide additional information on this matter.

Representatives of the West Indies Laboratory discussed the critical shortage of sand in the Virgin Islands and the potential use of the shelf area seaward of Sandy Point as a sand mining site. A two-year study is in progress by the West Indies Laboratory (funded by Office of Sea Grant, NOAA) to identify potential offshore sandmining sites. At this time, it is unknown whether offshore sandmining is economically and technologically feasible and if so, where it might occur. It is conceivable however, that mining in this area, if it were ever proposed, might be impacted by this designation.

It was noted at the meeting that designating this area as critical habitat will require any Federal department or agency that authorizes, funds, or carries out activities that might result in the destruction or adverse modification of the area to comply with Section 7 of the Act.

Written comments were received from Mr. Glen O. Clark, Acting Superintendent, Virgin Islands National Park, U.S. Department of the Interior and from Ms. Laura Tangleay, Defenders of Wildlife; both supported the proposed designation.

Mr. Clark indicated that staff of Christiansted National Historic Site and Buck Island Reef National Monument have inspected the proposed critical habitat area and concur in the designation of this area as critical habitat for the leatherback sea turtle.

Defenders of Wildlife noted that the proposed area is of critical importance to the leatherback in the course of carrying out its normal courting, breeding, and nesting activities, and falls within the definition of critical habitat under the Endangered Species Act of 1973 as well as the Act's 1978 amendments. In addition to supporting this designation, Defenders of Wildlife further recommended that NMFS identify other areas under U.S. jurisdiction that may be essential to the conservation of the species and designate these areas as critical habitat.

Defenders of Wildlife expressed concern that although private activities in the Sandy Point Beach area such as commercial and recreational fishing, boating, swimming, and diving are not directly affected by designating the area as critical habitat, these private activities could potentially have a detrimental impact on leatherback sea turtles at times of courting, breeding, and nesting. Defenders of Wildlife recommended the NMFS investigate the impacts of these private activities on leatherback sea turtles, and should the research show it necessary, seasonally close the area to one or more of such private activities. Defenders of Wildlife further recommended that NMFS provide the turtles additional protection by locally publicizing their endangered status and by concentrating enforcement efforts in the area.

The NMFS received no requests for a public hearing on the proposal.

The only activities that have been identified as possibly modifying this critical habitat of being impacted by its designation are recreational activities such as boating and swimming and sandmining. Recreational activities may result in disturbances in the water column that could affect the critical habitat but designation of this habitat will not impact private recreational activities. Sandmining may result in increased turbidity in the water column which may result in adverse modification of this habitat.

#### CONCLUSION

All information available to NMFS indicates that the area proposed as critical habitat needs to be protected

to help conserve the leatherback sea turtle. In addition, the economic and other impacts of this designation are either speculative or nonexistent. Based on the best scientific and commercial data available, the Assistant Administrator for Fisheries hereby determines that the waters adjacent to Sandy Point Beach, St. Croix, U.S. Virgin Islands are critical habitat for the leatherback sea turtle.

#### EFFECT OF THE RULEMAKING

The major effect of designating this area as critical habitat will be to require any Federal department or agency that authorizes, funds, or carries out activities that might result in the destruction or adverse modification of the critical habitat to comply with Section 7 of the Act. At this time there are no known Federal activities planned for this area.

Private activities are not directly affected by designating an area as critical habitat. The taking of any endangered turtle is presently prohibited by the provisions of the Endangered Species Act of 1973.

#### NATIONAL ENVIRONMENTAL POLICY ACT

The Assistant Administrator for Fisheries has determined that this action is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969. An environmental assessment has been prepared in conjunction with this rulemaking. It is on file in the NMFS Office of Marine Mammals and Endangered Species, 3300 Whitehaven Street, N.W., Washington, D.C. 20235, and may be examined during regular business hours or obtained by mail.

#### MISCELLANEOUS

On October 4, 1978, NMFS proposed to add a new Part 226, entitled Designated Critical Habitat, to Title 50 of the Code of Federal Regulations; and, to designate the Port Canaveral Navigation Channel, Cape Canaveral, Florida, as a critical habitat under 50 CFR Part 226 (43 FR 45905). The public comment period on establishing a new Part 226 closed on December 4, 1978. The designation of the Port Canaveral Navigation Channel is still pending. Nevertheless, no comments were received on the general provisions of the proposed new 50 CFR Part 226, and NMFS considers it appropriate to promulgate these general provisions at this time.

Under Executive Order 12044 (43 FR 23170) and Department of Commerce

Administrative Order 218-7 (44 FR 2082), the Assistant Administrator for Fisheries has made an initial determination that this is not a significant regulation.

The primary author of this rulemaking is Mr. Richard B. Roe, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, (202) 634-7287.

#### REGULATION PROMULGATION

Accordingly, 50 CFR is amended by adding a new Part 226 as follows:

#### PART 226—DESIGNATED CRITICAL HABITAT

##### Subpart A—Introduction

Sec.

226.1 Purpose of regulations.

226.2 Scope of regulations.

##### Subpart B—Critical Habitat for Marine Mammals

226.11–30 [Reserved]

##### Subpart C—Critical Habitat for Marine Fish

226.31–70 [Reserved]

##### Subpart D—Critical Habitat for Marine Reptiles

226.71 Sandy Point, St. Croix, U.S. Virgin Islands.

AUTHORITY.—Endangered Species Act of 1973, section 7, Pub. L. 93-205, 16 U.S.C. § 1536-87 Stat. 884.

##### Subpart A—Introductions

§ 226.1 Purpose of regulations.

The regulations contained in this Part identify those habitats designated as critical under section 7 of the Endangered Species Act, as amended, by the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, for those endangered and threatened species under the jurisdiction of the Secretary of Commerce. The list of these species is found in 50 CFR § 222.23(a) for endangered species and 50 CFR § 227.4 for threatened species.

§ 226.2 Scope of regulations.

(a) The critical habitat designations contained in this Part apply only to the endangered and threatened species listed in this Part.

(b) Regulations implementing section 7 of the Endangered Species Act, as amended, are found in 50 CFR Part 402.

(c) The provisions in this Part are in addition to, and not in lieu of other regulations of Parts 217-227 and 402 of this Chapter.

## RULES AND REGULATIONS

**Subpart B—Critical Habitat for Marine Mammals**

§ 226.11-226.30 [Reserved]

**Subpart C—Critical Habitat for Marine Fish**

§ 226.31-226.70 [Reserved]

**Subpart D—Critical Habitat for Marine Reptiles**

§ 226.71 Sandy Point, St. Croix, U.S. Virgin Islands.

**LEATHERBACK SEA TURTLE  
(DERMOCHELYS CORIACEA)**

The waters adjacent to Sandy Point, St. Croix, U.S. Virgin Islands, up to and inclusive of the waters from the hundred fathom curve shoreward to the level of mean high tide with boundaries at 17°42'12" North and 64°50'00" West.

Dated: March 16, 1979.

WINFRED H. MEIBOHM,  
National Marine  
Fisheries Service.

[FR Doc. 79-8873 Filed 3-22-79; 8:45 am]

**[3410-02-M]****Title 7—Agriculture****CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE**

(Lemon Regulation 191)

**PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA****Limitation of Handling**

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

**SUMMARY:** This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period March 25-31, 1979. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: March 25, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, (202) 447-6393.

**SUPPLEMENTARY INFORMATION:** *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating

the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on March 20, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is improving.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **FEDERAL REGISTER** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.491 Lemon Regulation 191.

**Order.** (a) The quantity of lemons grown in California and Arizona which may be handled during the period March 25, 1979, through March 31, 1979, is established at 235,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: March 22, 1979.

CHARLES R. BRADER  
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-9153 Filed 3-22-79; 11:42 am]

**[3410-07-M]****CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE****SUBCHAPTER I—ADMINISTRATIVE REGULATIONS****PART 2003—ORGANIZATION****Subpart A—Functional Organization of the Farmers Home Administration**

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

**SUMMARY:** The Farmers Home Administration amends its statement of organization and function. This action is taken to correct an incorrect placement of an organizational unit and is published in order to keep the public informed of the Agency structure.

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph Freburger, Director, Management Systems and Organization Planning Division. Phone: (202) 447-2445.

**SUPPLEMENTARY INFORMATION:** The Farmers Home Administration amends a portion of Exhibit B of Subpart A, Part 2003, Chapter XVIII, Title 7 in the Code of Federal Regulations. The function of the St. Louis Field Operations Branch was inadvertently published as though it was a subordinate element of the St. Louis Finance Office; whereas, it should have been shown as subordinate to the Business Services Division of FmHA's Washington headquarters. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking since the change is only to correct the organizational structure and publication in prior rule making form is unnecessary. Therefore, Exhibit B to 7 CFR Part 2003 is amended by transferring the information under "St. Louis Field Operations Branch" which is under "Finance Office," in column 3 on page 59084 of the **FEDERAL REGISTER** for December 19, 1978 to appear just before the heading "Communications Center" which is under the "Business Services Division" on page 59085 as follows: